

REMARKS

In the Office Action, claims 1-5, 8-10, 13-15 and 17 were rejected for nonstatutory provisional obvious-type double patenting as being unpatentable over claims 1-2, 4-5, 8 and 11-13 of Bueno et al., (co-pending U.S. Patent Application Number 10/456,280, hereinafter "Bueno"). Claims 9-10 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Claims 6-7, 11-12, 16 and 18-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

By this paper, Applicants have amended claim 9 for clarification of certain features to expedite allowance of the present application. These amendments do not add any new matter. Upon entry of these amendments, claims 1-19 remain pending in the present application and are believed to be in condition for allowance. In view of the foregoing amendments and the following remarks, Applicants respectfully request reconsideration and allowance of all pending claims.

Claim Rejections under 35 U.S.C. § 112, Second Paragraph

The Examiner rejected claims 9-10 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner asserted that "the radiographic image" at lines 3-4 and "said radiographic image" at lines 5-6 of claim 9 are unclear and confusing, as no such "radiographic image" has been previously recited or defined in the claim. Applicants have amended claim 9 as set forth above. In view of this amendment, Applicants respectfully request withdrawal of the Examiner's rejection.

Claim 10 is dependent from claim 9 and is believed to be in condition for allowance.

Claim Rejections under Doctrine of Obviousness-Type Double Patenting

In the Office Action, the Examiner rejected claims 1-5, 8-10, 13-15 and 17 for nonstatutory provisional obvious-type double patenting as being unpatentable over claims 1-2, 4-5, 8 and 11-13 of Bueno. Because, having overcome the rejections as summarized above, this is the only remaining rejection, it cannot be maintained. As summarized in MPEP 804.I.B:

The "provisional" double patenting rejection should continue to be made by the examiner in each application as long as there are conflicting claims in more than one application unless that "provisional" double patenting rejection is the only rejection remaining in one of the applications. If the "provisional" double patenting rejection in one application is the only rejection remaining in that application, the examiner should then withdraw that rejection and permit the application to issue as a patent, thereby converting the "provisional" double patenting rejection in the other application(s) into a double patenting rejection at the time the one application issues as a patent.


Applicants therefore request that the Examiner withdraw the nonstatutory provisional obvious-type double patenting rejection of claims 1-5, 8-10, 13-15 and 17 of the instant application and permit the application to issue as a patent.

Conclusion

In view of the remarks and amendments set forth above, Applicants respectfully request allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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